



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,027	12/05/2005	Klaus - Karl Wasmuht	30051/41499	6688
4743 7590 05/04/2009 MARSHALL, GERSTEIN & BORUN LLP 233 SOUTH WACKER DRIVE 6300 SEARS TOWER CHICAGO, IL 60606-6357				
EXAMINER ALEXANDER, REGINALD				
ART UNIT		PAPER NUMBER		
3742				
MAIL DATE		DELIVERY MODE		
05/04/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/553,027

Applicant(s)

WASMUHT ET AL.

Examiner

Reginald L. Alexander

Art Unit

3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4 and 7-11 is/are rejected.
- 7) ☒ Claim(s) 3, 5 and 6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 11 is rejected under 35 U.S.C. 102(b) as being anticipated by Wasmuht et al.

There is disclosed in Wasmuht a device for brewing beer wherein a first wort cycle (heat flow cycle) leaves a wort kettle 1 via line 3 and a second wort cycle runs via a wort forced flow 6 with a pump 4 and a thin-layer distributor.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wasmuht et al. in view of DE 3504500 and DE 3442516.

There is disclosed in Wasmuht a device for brewing beer, comprising: a wort kettle 1; an internal heat exchanger boiler 2 located within the kettle; a wort forced flow 11 running through the boiler and connected with a pump 12; a thin-layer distributor 2c for the wort; and an infeed device 18.

DE 3504500 discloses, in a device for brewing beer, a guiding screen (plate) 22 and a thin-layer distributor 23 for wort having a pipe subsection 19 leading above the guiding screen.

DE 3442516 discloses, in a device for brewing beer, a heat exchanger 11 including installed pipes 15.

It would have been obvious to one skilled in the art to substitute the heat exchanger of Wasmuht with the heat exchanger disclosed in DE 3442516, in order to provide an alternative means for heating the wort.

It would have been obvious to one skilled in the art to provide the device of Wasmuht with the guiding screen and pipe subsection taught in DE 3504500, in order to distribute wort to the distributor and recycle it to the wort kettle.

In regards to the reduced outlet cross-section, there is no defined means for providing such a reduction and therefor the provided outlet can be considered reduced.

Claims 1 and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 3504500 in view of Wasmuht et al., EP 0605783 and DE 3442516.

There is disclosed in DE 3504500 a device for brewing beer, comprising: a wort kettle 13; and internal heat exchanger boiler 11 located within the kettle; a wort forced flow 9 including a pipe section within the boiler; a thin-layer distributor 39 having a pipe subsection and a baffle surface provided within an opening of the pipe section wherein the cross-section of the opening can be adjusted.

Wasmuht discloses that it is known in the art to provide a wort forced flow running through a boiler which includes a pump cycling wort from a wort kettle through the pump and then to the boiler.

EP 0605783 discloses the use of a guiding screen 4 along with a thin-layer distributor 5.

DE 3442516 discloses, in a device for brewing beer, a heat exchanger 11 including installed pipes 15.

It would have been obvious to one skilled in the art to substitute the heat exchanger of Wasmuht with the heat exchanger disclosed in DE 3442516, in order to provide an alternative means for heating the wort.

It would have been obvious to one skilled in the art to provide the device of DE 3504500 with the pump and flow line taught in Wasmuht, in order to cycle wort from the kettle through the heater.

It would have been obvious to one skilled in the art to provide the device of DE 3504500 with the guiding screen taught in EP 0605783, in order to distribute the wort back to the kettle.

Allowable Subject Matter

Claims 3, 5 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues that the Examiner is in error when stating that element 22 of Lenz corresponds to the guiding screen, and element 23 corresponds to the thin-layer distributor. Applicant states that because of the operation of the Lenz device, element 23 actually corresponds to the guiding screen. While Applicant has provided, in the arguments, an operational scenario where the element 23 is considered the guiding screen, there is such scenario presented in the claims. The claims merely recite a guiding screen and thin-layer distributor. If, as Applicant has stated, the hot wort is propelled to the element 23 and deflected, it acts as a distributing surface for the wort. When the wort is deflected and falls upon the element 22, it acts as a guide for wort which is reintroduced into the container body of the brewing device. With this proposed scenario the structural limitations of a thin-layer baffle, guiding screen and pipe subsection leading above the guiding screen is met.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reginald L. Alexander whose telephone number is 571-272-1395. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Reginald L. Alexander/
Primary Examiner
Art Unit 3742